

**For:** State and County Offices, CMA's, and LSA's

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**Additional Clarifications for Barring Federal Debtors**

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**Approved by:** Deputy Administrator, Farm Programs



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**1 Overview**

**A Background**

The Debt Collection Improvement Act of 1996 (DCIA) mandated a new eligibility requirement for persons seeking Federal financial assistance. A provision of DCIA provides that a person owing a delinquent nontax debt to the Federal Government is **ineligible** for Federal financial assistance, including direct loans (other than disaster loans) or loan insurance or guarantees. The statute only excluded disaster loans from having to meet this eligibility requirement. A person may obtain additional loans or loan guarantees only after the delinquency is resolved.

Notice LP-1937 provided:

- clarifications for barring Federal debtors from obtaining marketing assistance loans (MAL's) and loan deficiency payments (LDP's)
- examples for resolving delinquent Federal nontax debts.

**Note:** The DCIA debtor bar provision, the information in this notice, and Notice LP-1937 apply only to the determination of a person's eligibility to obtain Federal financial assistance in the form of a loan, loan insurance, or guarantee. If a person has a delinquent, unresolved debt, he or she is ineligible for Federal financial assistance until the delinquency is resolved. This is not a debt collection issue nor a debt collection tool. Therefore, debt collection policies and procedures may differ from loan eligibility requirements for obtaining Federal financial assistance.

Several questions and concerns have arisen about unresolved delinquent Federal nontax debts.

Disposal Date	Distribution
March 1, 2004	State Offices; State Offices relay to County Offices, CMA's, and LSA's

## **Notice FI-2604**

### **1 Overview (Continued)**

#### **B Purpose**

This notice:

- continues the policy established in Notice LP-1937
- clarifies unresolved delinquent Federal nontax debts through questions and answers (Exhibit 1).

### **2 Action**

#### **A State Office Action**

State Offices shall notify County Offices immediately of the contents of this notice.

#### **B County Office Action**

County Offices shall:

- continue to follow Notice LP-1937 and all applicable handbooks
- maintain open communications with all personnel in the County Offices about the contents of this notice.

**Questions and Answers**

- 1. If a producer had a delinquent Federal nontax debt that was later resolved by the Agency through debt forgiveness/compromise, is the producer eligible for a MAL or LDP?**

Yes, because the delinquent debt has been resolved, the producer is eligible for a MAL or LDP.

- 2. If a producer discloses that he has a \$23.00 delinquent Federal nontax debt, is the producer eligible for a MAL or LDP?**

No. Until the delinquent debt is resolved, regardless of the debt amount, the producer is ineligible for a MAL or LDP.

- 3. If a producer had a delinquent Federal nontax debt when they ceased farming over 10 years ago and it has never been resolved, would they be eligible for a MAL and LDP if they had recently returned to farming?**

No. The producer would not be eligible for a MAL or LDP if the delinquent debt was still outstanding and unresolved. By law, the time limitation for administrative offset is 10 years, however, after the 10 years the producer still owes the debt until it is paid in full by voluntary means or it is forgiven/compromised or otherwise resolved.

- 4. If a Federal agency charged off a producer's delinquent Federal nontax debt, is the producer eligible for a MAL or LDP?**

For purposes of determining a debtor's eligibility to obtain Federal financial assistance, a delinquent debt that has been charged off or determined currently not collectible, is not considered resolved and the debtor is **ineligible** for a MAL or LDP. However, if the debtor has been released from liability by the creditor agency from any obligation to pay the debt, then the debtor is eligible for a MAL or LDP.

- 5. If a producer's delinquent Federal nontax debt was compromised through an approved payment agreement, is the producer eligible for a MAL or LDP?**

Yes, but only if the producer had paid in full the amount of compromise and the remainder of the debt was cancelled with a release of liability. For example, if the producer had a delinquent Federal nontax debt of \$30,000, paid an agreed compromised of \$18,000, and was released of the liability for the remaining \$12,000, the producer is eligible for MAL or LDP. The \$12,000 must be reported to IRS as taxable income.

- 6. If a Federal agency restructured a producer's delinquent Federal nontax debt, is the producer eligible for a MAL or LDP?**

Yes, so long as the restructured debt is no longer delinquent.

**Questions and Answers (Continued)**

- 7. If a producer enters into an approved payment agreement to apply a MAL disbursement or payment from LDP to cover part or all of the producer's delinquent Federal nontax debt, can MAL or LDP be issued?**

Yes, as long as an approved repayment agreement has been completed and the MAL disbursement or payment from LDP along with other available resources will fully resolve the delinquent debt at the time MAL or LDP is issued. For example, if a producer has a \$1,000 delinquent Federal nontax debt, the producer must enter into an approved repayment agreement to apply the \$800 payment from LDP, plus \$200 from a verified source at the time the LDP is issued.